

Wednesday, 15th August, 1934

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1934

(8th August to 6th September, 1934)

EIGHTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1934



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COUNCIL OF STATE.

Wednesday, 15th August, 1934.

The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock, the Honourable the President in the Chair.

QUESTION AND ANSWER.

LOWER SELECTION GRADE EXAMINATION FOR PROMOTION TO THE CADRE OF INSPECTORS OF POST OFFICES, MADRAS CIRCLE.

99. THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY : (a) Will Government be pleased to state when the last lower selection grade examination for promotion to the cadre of Inspectors of Post Offices was held in the Madras circle and why it is not held annually ?

(b) Do Government propose to hold an examination immediately ?

(c) Do Government propose to waive the age limit of 35 years in the case of those junior officials who were 35 years or below in 1932 ?

THE HONOURABLE MR. D. G. MITCHELL : (a) The last lowest selection grade examination for promotion to the cadre of Inspectors of Post Offices in the Madras Circle was held in 1930. No examination was held in 1931 as there was a sufficient number of passed men available and in 1932 this examination was abolished. The posts of Inspectors of Post Offices and of the Railway Mail Service and of Superintendents' Head Clerks were placed in a cadre separate from that of lower selection grade posts in the general line of the post office and a separate departmental examination was instituted for promotion to such posts. In this connection the Honourable Member is referred to the reply given in the Legislative Assembly on the 21st November, 1933 to part (e) of Mr. S. C. Mitra's unstarred question No. 206. The rules for the Inspectors' examination were formulated and published in December, 1933. According to these rules the examination will not be held annually if the head of a circle who is competent to hold the examination in any year, finds that the number of qualified candidates on the waiting list is excessive.

(b) Does not arise in view of the latter part of the reply given in the preceding paragraph.

(c) Government do not propose to make any relaxation of the existing rules in favour of the officials referred to by the Honourable Member.

DEATH OF SIR MANMOHANDAS RAMJI.

THE HONOURABLE THE PRESIDENT : Honourable Members, it is with great sorrow that I have to announce the death of one of the old Members of

[Mr. President.]

this Council, Sir Manmohandas Ramji, who was also a Member of the First Assembly. He remained there till its dissolution and subsequently in 1925 he was elected a Member of this Council. He was a leading merchant and citizen of Bombay and the founder of the Indian Merchant's Chamber and a pioneer of Indian Insurance and took great interest in the affairs of this Council. We all remember the part which he took in the discussion on the Ratio Bill as well as on the Report of the Simon Commission. I feel that you would want me to put on record an expression of our sorrow at his death.

THE HONOURABLE SAIYID RAZA ALI (United Provinces : Nominated Non-Official) : Sir, as one who had the privilege of sitting in this Council for some years with the late Sir Manmohandas Ramji, I rise to give expression to the feelings of grief with which I am sure this Council has heard of his death. Sir, this Council, ever since its constitution in the beginning of 1921, has been very strong in finance and banking. Sir Manmohandas Ramji was one of those who added very considerably to the reputation of this Council in this respect. Simple in habits, unassuming and unostentatious in manners, Sir Manmohandas was one of those who endeared himself to those with whom he came in contact. He did not speak very often but whenever he did speak he spoke to the point and made a useful contribution to the debate in which he took part. I request you, Sir, to convey to the family of the deceased the condolences and sympathy of this Council.

CONGRATULATIONS TO THE HONOURABLE SIR ALAN PARSONS
ON HIS APPOINTMENT TO THE INDIA COUNCIL.

THE HONOURABLE THE PRESIDENT : I wish also, before we proceed with today's business, to offer our congratulations to one of our Members, Sir Alan Parsons, on his elevation to the India Council. You have seen the official announcement this morning. Sir Alan Parsons joined the Council of State first in 1925 and he was taken away from us for about three or four years. Since 1932 he has been with us with the exception of a brief period when he was on leave. You all know his reputation as a financier and the work he did in this Council and the interesting budget debates in which he took prominent part. We all recognise his great ability and we are pleased to hear of his elevation to this important office. We shall be very sorry to miss him from this Council but what will be our loss will be the gain of the India Council. Sir Alan, I offer you the congratulations of this Council on your well-deserved elevation.

THE HONOURABLE SIR ALAN PARSONS (Finance Secretary) : Sir, I am extremely grateful to you and the Council for your congratulations on my new appointment. I shall always remember and value them. And I should like particularly to thank you, Sir, for the undeservedly kind terms in which you have referred to my work out here.

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE
TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill to supplement the

Assam Criminal Law Amendment Act, 1934, which was passed by the Legislative Assembly at its meeting held on the 14th August, 1934.

RESULT OF THE ELECTION OF NINE MEMBERS TO SERVE ON THE COMMITTEE TO EXAMINE THE WORKING OF THE OTTAWA TRADE AGREEMENT.

THE HONOURABLE THE PRESIDENT: I have to inform the Council that as a result of the election held on the 13th August, 1934, the following Members have been elected to serve on the Committee to examine the working of the Ottawa Trade Agreement:

The Honourable Mr. T. A. Stewart.

The Honourable Mr. Hossain Imam.

The Honourable Sir Alan Parsons.

The Honourable Saiyid Raza Ali.

The Honourable Diwan Bahadur G. Narayanaswami Chetty.

The Honourable Mr. E. Miller.

The Honourable Mr. Vinayak Vithal Kalikar.

The Honourable Mr. Bijay Kumar Basu, and

The Honourable Mr. Mahmood Suhrawardy.

RESOLUTION RE INDIANS IN BURMA—contd.

THE HONOURABLE THE PRESIDENT The debate will now be resumed on the Honourable Mr. Chari's Resolution. The Honourable Member in charge has already replied and I would like to know, before I call upon the Honourable Mr. Chari, if any other Member desires to speak.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Indian Christians): Sir, I have much pleasure in supporting this Resolution. It is not at all a wise policy to antagonise provinces which are near one another. The Burmans, I think, are not very different from the Indians so far as race, religion, or even language is concerned. There are greater varieties of race and language and religion in India itself. For instance, Dravidians are different from the Punjabis and Pathans and so on. So then there is no reason why the Burmans should think that the Indians are likely to do any harm to them by being allowed to trade freely and to settle there. Apart from that, there is another aspect of the case that has to be considered. Ever since Burma became a part of British India, and even before that, Madras had trade relations with Burma and it may be within the knowledge of some of us that during the great famine of 1877 Burma rice was imported largely into the Madras Presidency and did good to the people. After 1884, the Madras Nattukottai Chetti merchants went to Burma and traded there. I was told on very good authority—on the authority of the Honourable Raja Sir Annamalai Chetti—that so many as Rs. 80 crores, mostly funds of the Madras people, have been invested in Burma. So Burma owes a good deal of its prosperity to the enterprise and financial assistance of the South Indian people. Sir, it is but natural that the Indians should be safeguarded against any discriminatory legislation that may be passed. Another aspect of the case also has to be considered. It is not

[Sir David Devadoss.]

at all a wise policy to allow one province to pass discriminatory legislation against another province. If this goes on, Sir, I fear that in course of time people may be not merely at variance, but may be at war, not in the sense of fighting with bayonets and bombs, but very serious economic war which would result not in the happiness of either, but in the destruction of both so far as economic welfare of the province is concerned. So it is but fair that the safeguards which are given to subjects of the United Kingdom should also be extended to Indians. Supposing this is not granted, the Indians take it into their heads to think that because Burmans are treating them very badly, they will retaliate. Burma owes its prosperity mainly to timber, oil and rice. Supposing Indians, though our Constitution may not allow us to pass discriminatory legislation against Burma, still if the people feel that the Burmans are treating them unfairly, all this trade will have to come to a stop. People might ask, "How is it possible"? It all depends upon the feeling of the people. You cannot force down the throats of the people things which they do not want and I do not think it would be either for the good of India or that of Burma that Burma should be given an option to pass discriminatory legislation against Indians.

THE HONOURABLE MR. P. C. D. CHARI (Burma: General): Sir, I take this opportunity of thanking the Honourable the Leader of the House and the Government of India for the sympathy they have shown to Indians in Burma and for the assurance that our interests will always be their primary concern. I would also thank the Honourable Members of this House for the great interest they have taken and the support they have given to the safeguarding of the interests of Indians in Burma. I would only say one word with regard to the remarks that fell from the Honourable Saiyid Raza Ali. In Burma practically all the money-lenders are Indians. The Burman money-lenders are very few and practically negligible. They are only petty money-lenders, lending at usurious rates of interest, and they generally take trinkets or some of these small ornaments as pledges so that if the power is given to the Burma Legislature to restrict land alienation it will be in spirit a discriminatory legislation against Indians. Sir Samuel Hoare, with his characteristic frankness has stated in so many words that this power, if given to the Burma Legislature, would be a power to discriminate against Indians. It is not necessary for me to reply to any other remarks. I am anxious that this Resolution should go in time and I hope and trust that the Government of India will take necessary action as speedily as possible.

With these words, Sir, I commend this Resolution to your acceptance.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member): Sir, with reference to the wish of the Honourable mover of the Resolution that this Resolution be voted upon, I shall just announce to the Council what the Government attitude is. In all these reforms resolutions, Government have adopted a definite policy, that is to say, the non-official section of the House is free to express such opinion as it likes on all reform proposals. Therefore, in conformity with that policy, official Members of the Council will not take part in the voting and the House is free to come to such conclusion as it likes on the Resolution itself.

THE HONOURABLE THE PRESIDENT : The Question is :

"This Council recommends to the Governor General in Council to urge upon His Majesty's Government to secure to the Indians in Burma in the future constitution of Burma adequate safeguards on the lines recommended by Mr. Harper, the European representative, and the Indian delegates from Burma who sat with the Joint Select Committee and to secure to the Indians in Burma the rights of citizenship and the rights to carry on trade, profession or occupation on the same footing as are enjoyed by any other British subject."

The Motion was adopted.

RESOLUTION *RE* LEVY OF INCOME-TAX ON HOUSE PROPERTY.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern : (Non-Muhammadan) : Sir, I beg to move the following Resolution :

"This Council recommends to the Governor General in Council that income-tax be levied in the case of house property on the actual income derived by the assessee and not on the annual letting value of the property, and that for this purpose the income-tax law may be suitably amended if necessary."

Sir, as Honourable Members must be aware, while in the case of other sources of income the income-tax is assessed on the actual income derived by the assessee, in the case of house property the tax is for some unknown reason payable under section 9 of the Income-tax Act not on the actual income but on the annual letting value of the property. The "annual value" is defined in the Act as the "sum for which the property might reasonably be expected to let from year to year". Now, income-tax as its name implies is a tax on income. The word "income" has not been specifically defined in the Income-tax Act, but the dictionary meaning of the word is : "the gain, profit or interest resulting from anything". This simple definition has, it appears, been adopted in section 3 of the Act, which is a charging section. The section runs as follows :

"Where any Act of the Indian Legislature enacts that income-tax shall be charged for any year at any rate or rates applicable to the total income of an assessee, tax at that rate or those rates shall be charged for that year in accordance with and subject to the provisions of this Act in respect of all income, profits and gains"—mark the words 'profits and gains'—"of the previous year of every individual, Hindu undivided family, company, firm and other association of individuals".

Now, under the heads, "business," "professional earnings" and "other sources," income-tax is, under sections 10, 11 and 12, respectively, payable by an assessee in respect of profits or gains of these different kinds of income, which fact is, if I may say so, in conformity with the meaning of the word "income." But in the case of house property, the mode of assessment prescribed is quite different.

The tax under the head "property" is, as set out in section 9, payable by an assessee in respect of "the *bona fide* annual value of the property" as I have mentioned above. That is to say, the assessment of the tax on income derived from property is made not on the profits or gains or the amount of rent actually received by the proprietor of the property but on an amount supposed to be receivable by him. This sum is, so to say, a hypothetical or imaginary amount for the calculation of which the assessing authority is vested with arbitrary powers. The owner of the house cannot easily fix

[Rai Bahadur Lal Jagdish Prasad.]

the annual value. He knows what he receives and must naturally think that the actual income of the year must be the annual value. In municipalities where house-tax is levied, the municipality fixes the annual value for the purposes of tax and that may be deemed to be the annual value for purposes of income-tax also. But where there is no such tax the owner has no guide except on the basis of actual rent. This rent may have varied during the year and in that case the rent for different periods of the year is different and the total rent for the year cannot be the annual value in the sense assigned to it by the Act as the sum for which the property might reasonably be let from year to year (not from month to month). He cannot also take the rent of any particular period as the basis. If he takes a lower rent as the basis the income-tax authorities may come down upon him, while if he takes a higher rent as the basis he becomes a loser. Then, Sir, in assessing the house income allowance is made for repairs, ground rent, etc., but no allowance is generally made for unrealised or unrealisable arrears of rent. This causes serious hardship as some portion of the rent is ordinarily found to be unrealizable. If the actual rent income is taken as the basis of assessment, the difficulty will disappear of itself.

Sir, I have seen the notification of the Government of India exempting the following classes of income from income-tax :

“ Such part of the income in respect of which the said tax ^{ays b} of this ^b under the head ‘ property ’ as is equal to the amount of rent payable for a year but not paid by a tenant of the assessee and so proved to be lost and irrecoverable ; where (a) the tenancy is *bona fide* ; (b) the defaulting tenant has vacated or steps have been taken to compel him to vacate the property ; (c) the defaulting tenant is not in occupation of any other property of the assessee ; (d) the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfied the income-tax officer that legal proceedings would be useless ; and (e) the assessee has for the year for which the unpaid rent was due paid the income-tax in respect of the annual value of the property to which that rent relates. The income so exempted shall be excluded in computing the total income of the assessee ”.

But this provision cannot afford the necessary relief. From the wording quoted it is apparent that this exemption can only be in the year in which the rent was in default, as arrears of rent cannot be included in the succeeding year's income. Now it will be difficult, nay impossible, to take all reasonable steps to institute legal proceedings for the recovery of unpaid rent in that year. Moreover, it seems hard that this exemption should be granted only when legal proceedings have been taken. Some tenant may go away without paying rent and his whereabouts may be unknown or he may not be in a position to pay the arrears, or it may not be worth while to take legal proceedings and incur further costs. No exemption will apparently be allowed in such cases. Then the question arises : what about the costs incurred in legal proceedings, if the cost could not be recovered from the defaulting tenant ? The proper and reasonable provision would be to take the total rent income of the previous year as annual value and the basis of assessment, as in the case of other sources of income. To me it appears anomalous, unreasonable, illogical and unjust that owners of house property should be assessed on the supposed annual value of the property as defined in the Act, while businessmen, traders and other professionals should be taxed on the

actual gains or profits derived by them. Now, Sir, a somewhat similar Resolution was moved in this House in 1929 by my Honourable colleague Rai Bahadur Lala Ram Saran Das. I say somewhat similar because in addition to the recommendation made in my Resolution that Resolution also recommended that in case the income derived from leased property was realised by recourse to law the actual legal expenses incurred should be allowed as an extra deduction when assessing the tax. So far as I could find from the report of the debate on that occasion, mainly two objections were urged by the Government against the system of assessment in respect of house property as recommended in the Resolution. Firstly, that the assumed annual value had to be adopted in cases where a proprietor occupied his own house or allowed it to be occupied by a relative or a friend rent-free, for, it was said, in such cases no rent passed and there was no figure of actual receipt to look to; and secondly, that the test of actual rent could not be adopted in the cases of individuals who kept no accounts. And it was on these two grounds mainly that the Government tried at that time to justify the existing method of assessment in respect of house property. But as some assurance was given by the Government on that occasion with regard to the latter part of the Resolution the Resolution was on that assurance withdrawn. But, Sir, my Resolution today deals only with the method of assessment on house property which formed the subject of the first part of my Honourable friend's Resolution. Now let me examine briefly the two objections then urged by the Government in not accepting the first part of that Resolution, and let me try to meet them. If the proprietor of a house is himself occupying his house or has allowed it to be occupied by a relative or friend rent-free, I think it should be no business of the Income-tax Department to assess income-tax on that property because the property has actually yielded no income to the proprietor, in the same way as you will not assess for income-tax a merchant or trader, for example, on any assumed profit in excess of what he has actually received, even if, supposing for argument's sake, he has not charged the price of a thing from, say, a friend or has charged it at a concessional rate and has shown the consequential reduced profits in his accounts. But if the Government must continue to assess a proprietor's residential house also, howsoever unreasonable the proposition may be, then let them assess his residential house alone on an assumed annual value as heretofore. As regards the cases of individuals who keep no accounts, I submit that their cases also can continue to be treated on the same footing, because in cases in which no returns are filed or in which no satisfactory proof is forthcoming the Government cannot be considered unjustified if they assess the tax on an assumed income, and in fact the Income-tax Officer is already authorised by the Act in such cases to make an arbitrary assessment. But why such house property as is leased out on rent and in respect of which proper accounts are kept and filed by an assessee should be assessed on an assumed annual value and not on the actual amount of rent received passes my comprehension, for the case of such property ought in all fairness to stand on a different footing altogether from the other two cases. After all, Sir, the mode of assessment that I am advocating in my Resolution in respect of income derived from house property is no other than what exists in respect of other sources of income under the Income-tax Act. I am

[Rai Bahadur Lala Jagdish Prasad.]

suggesting no new system of assessment. I only seek to abolish the existing invidious differentiation between the two methods of assessment, in one case on the basis of actual profits or gains and in the other case on the basis of an assumed annual value. I really fail to understand why one mode of assessment should be adopted in the case of income derived from house property and a totally different system should be followed in respect of other sources of income.

I hope, Sir, that the reasonableness of my proposition would commend itself to the House.

THE HONOURABLE MAJOR NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, as a matter of fact the imposition of income-tax and super-tax as provided for in the Income-tax Act of 1922 is proving a source of great trouble and discontent to all those concerned and I think that I will have the support of a good many Members of this Honourable House in saying that there is a general desire for some relaxation in the existing rates of these taxes as well as the mode and method of assessment on the part of the income-tax authorities. Indeed, it is a pity that not even the slightest reduction in the rates of these taxes has been considered worth allowance for, although a reasonable reduction in their rates is an urgent necessity of the moment. Besides this the income-tax authorities have their own way of making assessments which can rightly be called as highly excessive and without any justification. There is only one interpretation of the income-tax law and it is greatly to be regretted that the income-tax authorities always insist on their interpretation of it to be accepted as correct. In short the present system of assessing incomes is highly coercive and humiliating and there are many difficulties in the way of assessees to have their incomes properly estimated.

Such irregularities and unfair assessments on the part of the income-tax authorities, I believe, have induced my friend the Honourable Rai Bahadur Lala Jagdish Prasad to bring in his Resolution. I think he is quite justified in doing so and he is quite reasonable in his demand. It is absolutely in fair justice that the income-tax in case of house property should be levied on the actual income derived by the assessee and not on the annual letting value of the property. Although the allowance of vacancies is provided for in the Act, but the fixing of this sum is left at the discretion of the income-tax officer. It is just possible, rather it has always been the case that the estimate of the income-tax officer in regard to the amount of vacancies is not correct and accurate, with the result that the assessee has always been the loser. With a view to safeguard against this loss of the assessee the modification proposed by the Honourable Rai Bahadur Lala Jagdish Prasad is quite reasonable and urgently called for. I therefore heartily extend my support to his Resolution.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras: Non-Muhammadan): Sir, I have very great pleasure in supporting the Resolution moved by my Honourable friend Rai Bahadur Lala Jagdish Prasad. I think it is a very reasonable and modest one and I hope the Government will see their way to accept the Resolution, so that next time when the

Income-tax Act is amended, this may be given effect to. So far as the letting value is concerned, it is a very difficult matter. It is fixed by the local authorities or municipal corporation. Even if a person builds a house for his own convenience, the letting value is fixed according to the judgment of the assessing officer of the corporation or municipality. Once in five years municipalities revise these assessments. These revisions take place when the owner is absent in some cases or even without his knowledge when he is present the tax is raised ; and the result is he has to pay the higher tax because he is not able to appeal against the revision of assessment in time. I say in many cases the imposition is very wrong, because the letting value is arrived at according to the judgment of the assessing officer. So far as the tax is concerned, unfortunately house owners pay double tax. They pay two months' rent to the municipality or *panchayat* board in the rural area and they also pay income-tax on the letting value fixed by the corporation or the *panchayat*. I really do not know why when *pattadars* of lands are exempted from paying municipal tax, these house owners should be saddled with this additional burden. As a matter of fact in many places, like Madras, the rental value has gone down very considerably and the value of the property has diminished by about 50 or 60 per cent. That is the lot of the unfortunate house owners in cities in the presidencies. My friend's Resolution recommends that tax should be levied, not on the letting value, but on the actual rent. It is a very reasonable and a modest request. House owners pay heavy tax, both income-tax and municipal tax and they feel the pinch very much. I therefore request the Government to accept this Resolution.

THE HONOURABLE SIR ALAN PARSONS (Finance Secretary): Sir, I am in some difficulty in dealing with this Resolution—a difficulty which I think the Honourable mover also felt. The subject has been discussed threadbare and it is impossible to say anything fresh or new about it. As far as my knowledge goes, in the old Imperial Council when the Income-tax Bill of 1918 was under discussion the Honourable Mr. Chanda moved an amendment practically in the terms of my Honourable friend's Motion. That amendment was negatived. Later on, I think in 1921, there was a very strong All-India Committee on Income-tax before whom the question came, and they recommended no alteration in our present basis of assessment. Later again, my Honourable friend Rai Bahadur Lala Ram Saran Das moved a Resolution, part of which is incorporated in the Motion now before the House. That was withdrawn after assurances had been given to the Honourable Member not on the first part of the Resolution but on the second part. Equally in other countries there have been similar discussions. A Royal Commission on Income-tax, about 15 years ago, I think it was, in England, before whom this particular question came, turned down the suggestion that the tax should be assessed on the annual rental and not on the assessed annual value of the property, on various grounds, one of which, I admit, was merely that the cost of administration would be much greater. All those discussions having taken place, I find it very difficult to put forward any fresh arguments for what is our present law, the law which Government think should still remain.

I will deal with one point first. Quite obviously, if income-tax is assessed on the actual income from and not on the annual letting value of the property,

[Sir Alan Parsons.]

the door is opened to evasion. I need not go into the various methods by which evasion would be possible ; I think if I were a property owner I could devise at least half a dozen. That is a very strong reason against an alteration, because if dishonest taxpayers do not pay their tax, honest taxpayers have to pay more. But I do not want to put my objection wholly or even mainly on that ground. I should prefer to put it on broader grounds. First, my Honourable friend's proposal quite clearly could not be of universal application. In the towns it is true most house property is let. In the country the reverse is true and most house property is occupied by the owner. We should have to retain the present criterion at least for property occupied by owners or given rent-free to their friends, unless we were to adopt the very revolutionary proposal of my Honourable friend that house property, when occupied by the owner or given rent-free to anybody, should be altogether free of income-tax. That, I think, is a proposal which is unlikely to find much support in this House. I will put it in this way. Supposing I were fortunate enough to have Rs. 20,000 to invest and was occupying at the time a house for which I was paying a rent of Rs. 100 a month. By buying that house for Rs. 20,000 I should be able to escape the income-tax which otherwise I should have to bear if I invested my money in Government securities, or the shares of any company. Why should we differentiate between one form of investment and all other forms of investment ? Now, if I am right in thinking that the House is hardly likely to support that very pleasant and at the same time revolutionary proposal (pleasant from the point of view of the house-owner) we shall have to have the existing criterion for all property occupied by its owner or given out by him to friends or others on concessionary terms ; and that would apply to the majority of houses which are not in the large towns. Now, in the large towns as a general rule there is municipal taxation and all house property is taxed municipally on the annual letting value, which is in fact the basis we adopt in the Income-tax Act. So that is a very simple method and I think generally a very fair method. At any rate it is hardly likely to be more to Government's advantage than to that of the taxpayer on the whole, for it is just as likely that houses in towns will be let at a higher value than their assessed annual value, as that they will be let at a lower value. If it is accepted that in municipalities where in a large proportion of cases there is a house tax based on annual value, that is a fair basis for the assessment of the income-tax, then I would submit that that is a very much more satisfactory basis for the great majority of the payers of income-tax, than one based on the actual rent recovered. Because the actual rent recovered can only be ascertained by a detailed examination of accounts, and a great many of these house-owners do not keep detailed accounts of the in comings and out-goings of their house property and would far rather be assessed on the municipal figure of annual value. That, of course, does bring in the argument which I mentioned was put forward by the Royal Commission in England. They thought that there would be a considerable increase in the cost of collection, which would of course fall on the taxpayers as a whole if assessments were based on the actual rent paid and not on the annual value. I do not want to lay too much stress on that argument though of course it would also be more expensive here. I only wish to mention it. I entirely realise that if we considered that it would be fairer as a whole to the taxpayer to adopt the actual rental instead of the

annual value as a basis for assessment, the fact that it would mean a certain amount of additional cost in administration should not be given any particular weight. But I am convinced myself that for the great majority of honest assesses the annual value is almost always the fairest and least harassing method of assessment.

Now, for what I do think is the real grievance behind my Honourable friend's Motion. I am prepared to admit that occasional hardship may occur. That is where an owner has let his house but he does not for some reason or other succeed in recovering the rent. My predecessor gave an assurance on that point to the Honourable Rai Bahadur Lala Ram Saran Das when this Motion was last discussed in this Council and we attempted to fulfil that assurance by the issue of a notification making it clear that in certain conditions where rent had not been recovered no attempt to assess on the assumed rent would be made. Those conditions, I may say, were absolutely necessary or most of them were absolutely necessary to prevent wholesale evasion. Quite recently, however, the Central Board of Revenue found that the notification did not actually carry out our full intention and we therefore as recently as the 4th of August last issued the revised notification which the Honourable Member mentioned. He, I think, was inclined to think that even that notification does not give relief where it should be given, and he instanced the example of a defaulting tenant whom the house owner was unable to find. What would happen in that case, he asked? If my Honourable friend will refer to the notification, he will see that the words—

“or satisfies the Income-tax Officer that legal proceedings would be useless”

will cover such a case. I do not know if my Honourable friend accepts that as getting over this particular difficulty. He also mentioned some point with regard to the non-recovery of rents in the actual year of assessment; but I am afraid I could not follow that point very clearly. But on both these points I am perfectly prepared to have the position examined by the Central Board of Revenue and if there are still, as there may be, flaws in our notification, I will make it my business to see that they are amended. We do not want, where there is no income, to attempt to assess an unfortunate house owner to income-tax on income which he does not obtain.

That is all, Sir, I think I have to say on this Motion. It is really because I am convinced myself that for the great body of the assesses our present system is the fairest, and that it is convenient both to them and the Income-tax Department that I fear I cannot accept this Resolution.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay: Non-Muhamadan): Mr. President, I must confess that after hearing both the mover and the Government Member, I cannot yet make up my mind whether to support the Resolution or to oppose it. I hope, however, the mover, when he replies, will make the points clear to which I shall refer. This will enable Members like myself to make up our minds either to oppose or favour the Resolution. From the remarks he made it might appear that perhaps the Income-tax Act which ought to be worked uniformly all over the country is not so worked; that is to say, that it is worked differently in towns from the manner in which it is worked in the country. The Honourable mover suggests that income-tax should be levied on the actual income derived by the assessee and not on the

[Sir Phiroze Sethna.]

actual letting value of his property. I do not know much in regard to the smaller towns or rural districts, but in large towns, as the Honourable Sir Alan Parsons observed, the letting value of a house is determined by the municipality. If a house owner objects, he has a right of appeal. Therefore, we may assume that in most cases the letting value arrived at is a fair value. Supposing the letting value of a house is Rs. 100 a month and again I say my experience is limited to towns, the income-tax authorities would levy tax on an income of Rs. 1,200 per annum. But in large towns, supposing that property has not been let for the whole year, or has been let only for, say, half a year, then income-tax authorities would allow a refund for the rent that was not realised. I gather from the remarks of the mover that perhaps that is not the case in the mofussil and that whether a place is let or not, it is charged with income-tax on the full amount. If that be so, I certainly agree with him that this is positively unfair and it is on that point that I would like him to enlighten us.

But, Sir, the mover proceeded further and said, if an owner chooses to give his house rent-free to his friend or relation, Government should not levy income-tax on that. I certainly cannot agree to such a proposal. The Honourable Sir Alan Parsons has rightly pointed out that the same gentleman may invest in Government paper or in shares and will have to pay income-tax on the income which he derives from those investments. If he chooses to invest in property and does not want to charge rent to his friends or relations, that is his lookout. If you carry the analogy further, then in towns you will say that if an owner occupies his own house, why should he be charged income-tax which he is charged, and very rightly.

These are the points upon which I do hope the Honourable mover will throw light to enable us to know what course to adopt.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to support the Resolution which has been so ably moved by my Honourable friend Rai Bahadur Lala Jagdish Prasad. Sir, I had the privilege of moving a similar Resolution in March, 1929, and in reply, the Honourable Mr. Burdon gave me an assurance that Government would move in the matter and see how far my Resolution was justified and would act accordingly. A notification was issued which did not meet the subject-matter of my Resolution fully. Now, recently, the Government have improved upon that notification and have issued a new notification in which the exemption is granted if legal proceedings have failed to recover the rent or in case the house owner satisfies the income-tax officer that legal proceedings would be useless. Sir, times have changed since 1929. Owing to the economic depression things have taken a different turn. Property cannot be easily let nowadays. I know from my own personal experience that a number of my own houses remain vacant although their condition for habitation is excellent. In case we take the annual letting value of the house, as my Honourable friend Sir Alan Parsons has said, in a number of cities in the Punjab, there is no house tax and so there is no proper record of the basis on which the letting value may be ascertained. Take the case of a hill station

like Simla. I can give a number of instances of good houses which have been let at a very low rental at the fag end of the season. Even now, houses whose letting value was Rs. 2,000 have been let for the rest of the season for Rs. 500. I want the Government to be just and fair. The definition of income is what comes in, and not what is supposed to come. Therefore, I want bare justice from the Government and I do not want them to assess people on the supposed rental value. As regards satisfying the income-tax officer, that depends upon the nature of the officer. Certain officers accept the assurances, others do not and I do not blame them for not accepting because there is no documentary proof which the house proprietor has to furnish. I will give you an instance. A theatre is occupied by a theatrical company. That company also hired another

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house in which they store their scenery and stores. Unfortunately that second house caught fire and all their sceneries and properties were destroyed and the company was stranded; they could not stage any shows and the result was that they could not pay any rent. Seeing their condition one naturally lets them off because there was no chance of recovering the rent by going to a court of law. The case was reported to the income-tax officer and he said, "That is not enough; legal proceedings are required". Well, Sir, if legal proceedings had been filed one would only have added to his losses. I want that in such cases, if the income-tax officer or the Government insist on legal proceedings being taken and those proceedings fail, the court costs ought to be allowed in the assessment.

THE HONOURABLE SIR ALAN PARSONS: May I ask the Honourable Member when this case occurred?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I do not remember the exact date but it occurred about 10 years ago.

THE HONOURABLE SIR ALAN PARSONS: That, Sir, was long before the two notifications issued particularly on the Honourable Member's representation.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That notification and the subsequent notification which has now issued do not cover such cases, because the income-tax officers—I do not say all, but some of them—are not satisfied. There was another case in which a British military officer occupied one of my bungalows and he did not pay the rent for a year, notwithstanding reminders and personal requests. Later on legal proceedings were taken. As is well known, legal proceedings take very long, and I have always been urging that justice delayed is justice denied. By the time the court came to a conclusion that officer was transferred to Cairo, and of course the court said that now as the officer is not under the jurisdiction of the court the court cannot do anything and execute the decree. So I lost the rent as well as the costs in the court. Then I made a representation to His Excellency the Commander-in-Chief praying that a certain colonel had not paid his rent for more than one year of my bungalow and I asked that action might be taken against him, but I got a similar reply, that the officer concerned was not under his jurisdiction. In spite of all that no rebate in income-tax was allowed.

THE HONOURABLE SIR ALAN PARSONS: Can you let us know roughly the date of that particular case?

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : The moral is, invest in Government paper, not in house property !

THE HONOURABLE MAJOR NAWAB SIR MAHOMED AKBAR KHAN : May I ask the Honourable Mr. Basu whether Government paper 'gives the same return ? What rate of interest does Government paper bring in ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : My Honourable friend Mr. Basu says that Government paper is the best investment. Some time back that was the fact and Government securities were termed "gilt-edged." But I know from my own personal experience that those who invested in Government securities during the last few years lost as much as 40 per cent.

THE HONOURABLE SIR ALAN PARSONS : Will the Honourable Member give a reply to my question ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I have not got the details with me. It was about five or six years back. But I say that the previous and the present notifications have not much practical effect upon the assessment. If that had been so, Government would not have felt the necessity of issuing a second notification, which shows that the first notification issued as a result of my Resolution of 1929 was not sufficient and fair. I have also said that notwithstanding all my efforts I could not satisfy the income-tax officer. Sir Alan Parsons quotes the case of England and the practice there. But England cannot be compared to India, because there, I understand, the rents are fixed on a weekly basis. I speak subject to correction. That is my impression, but it does not matter whether such is the case. But my main point is that in England people can afford to lose in this respect as they have so many other concessions. Exemption and remission are allowed for the education and maintenance of children, for each child and wife and other dependent relations which in India are not allowed. Then my Honourable friend Sir Phiroze Sethna observed that it is improper to ask the Government to give a remission when the property is left free to friends or relations. Sir, in the present times, as I have said, house property cannot be easily let, and when one finds that there is no demand for a certain house or shop and one obliges a friend or relation and allows him to live there free for a month or two, it is not just and proper that the Government should assess for the annual letting value of that house. I am sure the Honourable Finance Secretary will not deny that conditions are, as I have stated, and there is no justification for assessing that property which has not been let and which cannot be let to those who pay rents. Then, Sir, he said evasion is a curse. Well, there are black sheep every where in all countries and all societies ; there are people who will not pay rent and taxes. But, Sir, honest people should not be penalised for the actions of the dishonest, and I do not think the Government has any justification for thus penalising honest people. I do not want to dwell long on the subject and I will say that from the practical experience which I, and other friends of mine in this line have, this Resolution ought to receive the acceptance and favourable consideration of the Government.

THE HONOURABLE MR. P. C. D. CHARJ (Burma : General) : Sir, I do not want to give a silent vote. I have moved several Resolutions in the last

Council of State to improve the Income-tax Department and to soften the rigour of the Act, but I have been uniformly unsuccessful, but in the matter of this Resolution, I am opposed to the principle underlying it. In the matter of assessment our incomes are taxed without making any deduction for personal expenses. Here if a man builds a house for himself he can invest a large amount on building property. If he chooses to occupy a very costly house, that is a matter of expense which he chooses to incur for himself. Why should he be placed in a better position than he would be if he had invested the spare money in other investments like Government paper? There is no justice or equity underlying this Resolution which claims a sort of exemption in the case of houses occupied by the owner himself. There may be occasions when the house could not be let to other people, but under those circumstances the letting value will be reduced owing to a large number of houses being available for letting.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : How ?

THE HONOURABLE MR. P. C. D. CHARI : If there are a large number of houses available for letting, the letting value will be reduced. It will work itself out by the operation of demand and supply ; if houses could not be let, if there is not much demand for houses, then in that case the letting value would automatically go down and the owner of the house will have the advantage of having the letting value reduced. There is no need for a special rule as the one recommended by this Resolution. I therefore oppose this Resolution.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD : Sir, I hope the Government might have seen from the course of the debate on this Resolution that my Resolution has found warm support in this House. Only the Honourable Mr. Chari and the Government have thought it fit to oppose it. In fact I have received support from quarters from which I seldom expect any support. This shows the strength of feeling on this subject and the justice and reasonableness of the proposition that I have recommended. Sir, I thought that in my first speech I had met the two objections which the Government had put forward on the previous occasion when my Honourable friend Rai Bahadur Lala Ram Saran Das moved a similar Resolution in 1929. But I find that mainly those two very objections have been put forward by my Honourable friend the Finance Secretary in opposing my Resolution today. The first objection that has been put forward is that in cases in which the owners occupy their own houses the existing criterion would have to be adapted, as also in cases in which the owners have let their houses to their friends or relations. I have already pointed out, Sir, that to me it seems quite reasonable that such houses as yield no income should be exempt from income-tax ; but in case this point of view does not meet with Government's approval, I have suggested the other alternative, namely, that such houses can continue to be assessed on the annual letting value, as is the case now. But I have made it quite clear that there is no justification for continuing this system of assessment in respect of that property which is leased out by the proprietor on rent and in respect of which accounts are kept by the owner and are filed with the income-tax officer. In such cases, Sir, I think it is only reasonable that the income-tax should be assessed on the actual income derived by the assessee and not on the assumed annual letting value. My Honourable friend

[Rai Bahadur La'la Jagdish Prasad.]

the Finance Secretary has also urged that if the system recommended by me is followed, the cost of administration would be greater. But, Sir, he has not explained to the House how the cost of administration would increase if my proposition is adopted. The income-tax officer even now assesses income-tax in the case of those houses which are in the occupation of the owners themselves at an assumed annual value. He can continue to do the same in the case of such houses. But in the case of those houses which are actually leased out on rent, I see no difficulty in assessments being made in accordance with the accounts of rent income filed by the assessee. Surely, if the assessee convinces the income-tax officer that the accounts filed by him are genuine, there is no reason why income-tax should not be assessed accordingly; and I cannot understand how the cost of administration would increase in adopting this system. In fact, I fail to see how the Honourable Sir Alan Parsons has said that the system recommended by me would increase the cost of administration. Sir Alan Parsons also thinks that if actual income is taken as the basis of assessment the door would be opened for evasion. I fail to understand, Sir, why it should be so in the case of income from house property alone and not in the case of other sources of income.

Now, Sir, my Honourable friend Sir Phiroze Sethna has stated that in big towns like Bombay, from where my Honourable friend comes, a refund is allowed on income-tax if it is shown to the income-tax officer that the actual rent received by the assessee was less than the annual value on which the tax has been assessed. I may inform my Honourable friend that this may be the case in big towns, but it is not the case in other places. In other places where there is a house-tax levied, the annual letting value is the amount fixed by the municipalities, whereas in places where there is no house tax or where there are no municipalities this annual letting value is fixed by the income-tax officer arbitrarily.

Now, Sir, my Honourable friend Lala Ram Saran Das has mentioned the case of houses which remain vacant. My Honourable friend the Finance Secretary has not stated whether income-tax should be assessed on such houses as remain vacant. It is at present assessed on such houses also.

Then, Sir, the Honourable Sir Alan Parsons stated that the Royal Commission on Income-tax in England had recommended the present system. But, Sir, as my Honourable friend Lala Ram Saran Das pointed out, the system of assessment of income-tax is quite different in England from what obtains in India. In England the losses in income are carried forward up to three years in making assessment of income-tax. Here they are not so carried forward. Then in England at the time of assessing income-tax a rebate is allowed in the case of married people for each child. That is not the case here. So that conditions differ in the two countries and we cannot adduce the analogy of England to support every case in India. I think, Sir, that I have been able to convince the House that my Resolution is quite just and fair. But if I do not propose to press it to vote, it is for two reasons. In the first place, Sir, I think that it is no use pressing a Resolution to vote in a House in which the Government enjoys, so to speak, a statutory majority. In the second place, I consider that the Government yields a point when it is pressed

from time to time. It is my experience that the Government concede a point demanded by non-official public opinion only when the force of public opinion becomes irresistible. And they take time to act in conformity with public opinion. A similar Resolution was moved in this House five years ago, I have brought forward this Resolution today, I hope this point will be pursued further in the Central Legislature from time to time hereafter, and I am sure that a day will come when the Government will realise the strength of public opinion on this point. Sir, I believe in the dictum : "Knock, knock and you will open". I am sure if this point is pressed on the attention of Government from time to time a day will come when the Government will concede this reasonable proposition. For the present, Sir, I content myself with having placed the case before the Government, and I do not want further to embarrass Sir Alan Parsons on this occasion when we have just congratulated him on his elevation to the India Council.

With these words, Sir, I beg leave of the House to withdraw my Resolution.

The Resolution was, by leave of the Council, withdrawn.

RESOLUTION *RE*. CONSTRUCTION OF A NEW COUNCIL OF STATE CHAMBER AT SIMLA.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Sir, I beg to move:

"That this Council recommends to the Governor General in Council to build in Simla a Council Chamber for the Council of State near the Assembly Chamber."

Sir, I want at the very outset to explain the position that I am going to adopt under this Resolution. I do not want, rather I should be the last man to embarrass the Government at such a stage for any financial commitments because I know that taxes are being increased every day to balance the budget. But, Sir, if I do that, I would be justified because I find that Government is spending money where they want without the consideration which I happen to have for the finances of the Government. It was only the other day that Government pressed for the transfer of the Pusa Institute to Delhi. In that instance, Sir, the Government were prepared to spend about Rs. 30 lakhs and had no consideration for the financial stringency. I also find from the papers, Sir, that a programme for the capital expenditure of about Rs. 2 crores has been drawn up by the Government because they find that interest is low at present. Sir, interest may be low but after all the Government shall have to pay it and if there is financial stringency, the amount ought not to be spent. However, Sir, there it is. And now the Honourable Member will put a very pertinent question, as to what is then the reason why I am moving this Resolution? Sir, my object is to bring the step-motherly treatment that is being meted out to this Chamber to the notice of the Government. We all know what conveniences have been provided for the other House and what discomforts we who meet here in Viceregal Lodge under the protection of His Excellency the Viceroy have to put up with. We are very proud to meet here under this nice roof and some of us also are very proud when the guard salute us. But sometimes we find, Sir, that salutes are being made to Europeans and not to Indians—

THE HONOURABLE THE PRESIDENT: Never mind the salutes.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Very well, Sir, I do not wish to enlarge on the differentiation that is sometimes made.

Sir, the main reason that I have for bringing this Resolution before this House is that we are put to unnecessary inconveniences—I will just draw the attention of the Honourable Members of this House to the notification in the circular letter No. XX from the Secretary of the Council of State, which says that a notice office for the Council of State has temporarily been opened in Room No. 11 on the ground floor of Gorton Castle, Simla. So, Sir, if we want to give notices of resolutions or questions or anything else, we have to go to Gorton Castle. Why has the notice office not been opened where the Council Chamber is located? Why has this differentiation been made in the case of the Assembly?

I will refer to another circular letter from the Secretary of the Legislative Assembly Department. This is Circular letter No. XXXIV, dated the 11th July. It says:

“The undersigned is directed to forward for the information of Members of the Council of State and of the Legislative Assembly a statement showing the prices at which embossed and printed stationery and certain publications may be obtained from this Department. They will be sold on cash payment only at the Notice Office in the Assembly Chamber by an Assistant of this Department between the hours of 10 and 11” and so on.

If the Members of the Council of State want to purchase the embossed stationery, they will have to go to the Assembly. They cannot get it here. Why is this convenience given to the Members of the other House and not to the Members of this House?

Then, Sir, one of the greatest inconveniences felt by us is that the Library is located there. There is no Library here. What is a reading room for without many papers? I may submit that we have only got one or two papers and a few almirahs filled with Law Journal Reports and Council Proceedings. It was only the other day that my Honourable friend the Leader of the House, standing in the same room, put me the question whether I had read all the books. I in turn asked, “Are they worth reading?” It contains only Law Reports and Council Proceedings. If during the course of a debate one wants to refer to certain books, he will have to go to the Assembly, so far off, to bring those books. That shows that we will have to contend without making any reference to books, or that during our leisure period we can go to the Assembly and consult them in the Library.

Further, I want to bring to the notice of the Government that no room has been supplied to the Opposition Party here to hold their consultations in privacy. In all the Legislatures, whether local or imperial, the practice is that as far as possible all parties are supplied with separate rooms. If not, all, the Party in Opposition at least must have a separate room for their private consultation. We have not been supplied with any such rooms here. Then, Sir, one most important complaint is that we have no tiffin rooms here, and Members, when they enter the Council Chamber have, at the back of their minds, always to hurry up the proceedings and finish before lunch time because

they will have to go far away for their lunch. In the Assembly Chamber tiffin rooms are provided and Members can have lunch, tea, or anything else they like. They are quite at ease and ready to discuss the proceedings till five or six o'clock. Here, if the proceedings continue after lunch, either the Members have to run to a far-off place, and spend an hour in going and coming back in a rickshaw, or they have to go without lunch and tea. This is another drawback on account of which the Members are not at ease to discuss the proceedings. I therefore do not think that it is proper to have the Council of State Chamber here. I do not know but I understand that in the old day Councils Members used to be provided on such occasions with lunch and tea on behalf of Government from the sumptuary allowances. I would not be so bold as to make any request of that kind. We are paid daily allowances and we are willing to pay out of it with the greatest pleasure. Only we want that arrangements should be made for us. That is all that we want. This is one of the greatest discomforts we suffer because of the Council Chamber being located in Viceregal Lodge.

As I am dealing with the step-motherly treatment that is being shown to this House, if you will permit me, I will say a word about the allotment of quarters, the differentiation made between this Chamber and the other Chamber

THE HONOURABLE THE PRESIDENT: What has that got to do with this Resolution? That has nothing to do with this Resolution and I will not allow that matter to be discussed.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I will leave it, Sir, with the remark only that there is differentiation in this matter also between the two Chambers. I have mostly confined myself, on this Resolution, to describing the discomforts which we feel by having a Chamber for the Council of State in Viceregal Lodge. I shall be prepared to withdraw this Resolution if the Government are willing to meet most of the discomforts which I have placed before them, or if the Government are willing to undertake that they will hold the Council sessions at Delhi and not at Simla. We want the Council session with all the comforts that are given to the other House. If no such comforts and conveniences are given, then it is better not to have the Council of State meetings in Simla. I am one of those, Sir, who believe that the time has come when even the whole Government should not migrate to Simla but should remain in Delhi and save expense.

THE HONOURABLE THE PRESIDENT: You must leave that question alone.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: I have explained my position and I hope all the Honourable Members of the House will agree with what I have said on this Resolution.

THE HONOURABLE MR. D. G. MITCHELL (Industries and Labour Secretary): Sir, when I first read this Resolution, my feelings towards the Honourable Member were those of gratitude. I know the environments of the Assembly building and I realised that the most likely site for a new Council House was the site now occupied by Kennedy House, a ramshackle improvisation in which I and 150 other unfortunates are doomed to spend our working hours. I would watch the demolition of Kennedy House with great satisfaction. I mention this personal matter for the information of the Honourable

[Mr. D. G. Mitchell.]

Member to let him see that he is not the only frequenter of Simla who has a grievance. I have taken note of the various points of which the Honourable Member complains. He complains that there is no notice room attached to this Council House, but I understand that the Secretary of the Council is only too willing to accept a notice here at any time any Honourable Member should give it to him. Apart from that, the Members have been given the additional convenience of being able to send notices in to Gorton Castle, which is nearer the residences of most Members. The Honourable Member also complains of the lack of a library. I am sure that he himself has found very little need for a reference library, and that he is able to draw on the resources of his own well-stocked mind without being appreciably inconvenienced. He also complains that he requires a Party room. There are no Party rooms in the Assembly building—

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I have seen the Party room for the members of the Nationalist Party and the other Party that is in opposition. I have myself seen the rooms.

THE HONOURABLE MR. D. G. MITCHELL : Sir, I am afraid I am not aware of the fact. I myself remember no Party rooms set aside in the Assembly building. I think however that there is sufficient accommodation in the Council House now, even for the Honourable Member's Party, to find a small corner in which to conduct their deliberations.

As regards tiffin, Sir, I fully sympathise with the Honourable Member's feelings and I notice his haggard and emaciated appearance, but I would point out to him that we do not meet very frequently after tiffin, and when we do you, Sir, give us a very liberal allowance of time. Then the Honourable Member referred to his own desire that meetings should only be held in Delhi. That of course is a very conclusive argument against building another Council House. And that brings me to the main Government position, Sir, which is that the constitutional position is much too uncertain for us to launch out on any big building scheme. A house designed on the ample lines suggested by the Honourable Member would cost many lakhs, and until we know exactly the nature of the house which will be required and when it will be required, it would be very bad finance indeed for us to launch out on a large expenditure, whether from capital or from revenue. Lastly, Sir, I appeal to the Honourable Members present that we have no real grievance in meeting in this very fine room. If we look at all the four rooms occupied by the two Chambers of the Legislature, I think we will all admit that in many ways this is the best. It has the best ventilation ; it has the best lighting ; we are not subjected to the intolerable glare from which the Members of the other House suffer ; it is admirably proportioned ; its acoustic properties, though not quite ideal, are much better than those of the other House ; and if outside we should be subjected to any slight inconvenience I think we would be very foolish indeed if we insisted upon being moved from this building to some improvisation on the lines of Kennedy House. (Applause.)

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Sir, I am sorry that in reply the Government had not thought it

fit to promise to remove the grievances for which I brought this Resolution forward. I made my position very clear at the outset that I did not want to embarrass the Government financially. I shall be satisfied if the grievances are removed. I never mentioned a word of bad ventilation in my speech. This is a very nice room and there is no complaint so far as the room itself is concerned ; but there are so many accompanying discomforts which I have mentioned in detail. I quite admit and we are very thankful to you, Sir, that a liberal time allowance is given us for lunch, more than in Delhi—

THE HONOURABLE THE PRESIDENT : Because in Delhi there is a restaurant upstairs.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I said we are very thankful, but it is so very inconvenient to spend an hour in going and coming for lunch or tea. Many Members would prefer to go without lunch than travel to such distances as they have to. I think it is very easy for the Government to make arrangements for the Members to get their lunch in one of the rooms here by paying for it, and if they could remain comfortably here for the lunch interval they would be quite prepared to carry on after lunch and would not want to hurry the proceedings in the forenoon. Even that request of mine has not been accepted by Government.

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : A little running will do some of us very much good !

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Yes, but I am afraid my friend never runs ; he always comes in a rickshaw. It is very good to preach, but it is a different thing to practise what you preach, and he asks us to do what he himself does not do. Then, Sir, the weather of Simla is so very bad. One does not know when it will rain and it is very inconvenient to go out in the rain to such long distances. Therefore if the Government gives an assurance on one or two important points like these, for instance, supplying a room for the Opposition Party and the refreshment room, I will certainly withdraw the Resolution.

THE HONOURABLE MR. D. G. MITCHELL : May I suggest that the Honourable Member puts these points before the House Committee, so that they may be discussed and put up in a regular manner ?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I hope these proceedings will be sent to the House Committee and I withdraw the Resolution on that condition.

The Resolution was, by leave of the Council, withdrawn.

PARSI MARRIAGE AND DIVORCE BILL.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Sir, I move :

“ For leave to introduce a Bill to amend the law relating to marriage and divorce among Parsis. ”

At this stage it is not necessary for me as mover to address the House at any length. I may state in brief that this Bill refers to two very important social institutions of the Parsis, viz., marriage and divorce. The existing Parsi Marriage

and Divorce Act was enacted in 1865. Nearly seventy years have elapsed since then and conditions have so greatly altered and such changes have been brought about in the views, sentiments, and social life of the community that it has been felt for years that the existing law needs to be amended. The present Bill is expected to serve that purpose. It is prepared after considerable discussion and deliberation and represents the views of by far the larger majority of the community. The Bill has been finally settled and sponsored by the Trustees of the Parsi Panchayat of Bombay which is the leading socio-religious institution of the Parsis and commands great respect of the community in general.

The objects and reasons of the Bill has been explained in the statement appended to the Bill, and I need only point out that the Bill attempts to remedy certain defects in the existing Act as have come to light from time to time, both through practical experience and the findings of law courts. Some sections in the existing Act are proposed to be altered or amended and some new sections added. There are a few apparent defects in the existing Act which require to be remedied. For example, under present section 27, if a marriage is declared null and void by reason of insanity at time of marriage and if there are children born of such marriage whether they are to be treated as legitimate or illegitimate is a point which the amended Bill will solve by making the ground for the declaration of nullity a ground for divorce. In the sections relating to grounds of divorce or judicial separation alterations have been made to conform to the present day views and sentiments of the community. The sexes have been put on an equality as respects adultery, and some new grounds of divorce have been added.

Sir, I move.

THE HONOURABLE THE PRESIDENT: The Question is:

"That leave be given to introduce a Bill to amend the law relating to marriage and divorce among Parsis."

The Motion was adopted.

THE HONOURABLE SIR PHIROZE SETHNA: Sir, I introduce the

Bill

STATEMENT OF BUSINESS.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Leader of the House): Sir, a new Bill to supplement the Assam Criminal Law Amendment Act, 1934, has been laid on the table this morning. I think it would be best if we meet next Saturday to deal with it, and it has been suggested, Sir, that in case we meet at 10-30 A.M. instead of 11 A.M., next Saturday, it may not be necessary to meet in the afternoon that day, thus we may be removing one of the grievances of the Honourable Member.

The Council then adjourned till Eleven of the Clock on Thursday, the 16th August, 1934.